UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

MGM GRAND HOTEL, LLC d/b/a MGM GRAND
Employer

and Case 28-RC-154099

INTERNATIONAL UNION OF OPERATION ENGINEERS, LOCAL 501, AFL-CIO
Petitioner

ORDER

The Employer's Request for Review of the Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.

In denying review, we agree with the Regional Director's reliance on *Advance Pattern Co.*, 80 NLRB 29 (1948). Under *Advance Pattern* and its progeny, the Board has consistently held that so long as a question concerning representation in fact exists, the Board will not dismiss a petition simply because—as in this case—a petitioner fails to indicate on the petition form whether it has requested recognition and the employer has declined to extend recognition. The Petitioner's request for recognition, and the Employer's declination, at the hearing were sufficient to establish the existence of a question concerning representation. See, e.g., *Alamo-Braun Beef Co.*, 128 NLRB 32, 33 fn. 5 (1960).[1] To dismiss the petition under these circumstances would be an abrogation of the Board's statutory duty—set forth in Section 9(c)(1) of the Act—to resolve questions concerning representation.

Contrary to the Employer's contentions, the Board's continued adherence to this longstanding interpretation of its own rules and regulations is not arbitrary and capricious, and the Board has stated that a failure to indicate on a petition form that a request for recognition was made "does not prejudice" employers. *Dependable Parts, Inc.*, 112 NLRB 581, 582 (1955); *Economy Furniture*, 122 NLRB 1113, 1114 fn. 2 (1959). See generally *NLRB v. Superior Cable*, 246 F.2d 539 (4th Cir. 1957) (per curiam) ("it would be a senseless technicality to hold that the representation proceeding should have been dismissed and the parties required to initiate a new proceeding, where the demand and refusal of recognition had been established at the hearing itself and the defect in the petition could be cured and was cured by amendment."). Moreover, nothing in the Board's recent amendments to its rules and regulations purports to alter its longstanding practice in this area.

MARK GASTON PEARCE, CHAIRMAN

PHILIP A. MISCIMARRA, MEMBER

[1] Indeed, "[t]he filing of a petition itself constitutes a sufficient demand for recognition." *Alamo-Braun*, supra. See also *Florida Tile Industries*, 130 NLRB 897, 898 (1961).

LAUREN McFERRAN, MEMBER

Dated, Washington, D.C., October 22, 2015.